

(3) The PHA may, at any time, ask HUD to determine whether a displacement is or would be covered by this section.

(i) *Definition of initiation of negotiations.* For purposes of this section, the term “initiation of negotiations” means:

(1) For conventional or acquisition projects:

(i) Where the PHA purchases the real property through an arm’s-length transaction (as described in 49 CFR 24.101(a)(1)), the seller’s acceptance of the PHA’s written offer to purchase the property (i.e., the seller’s execution of form HUD-51971-II), provided the PHA later purchases the property; or such other date, as may be determined by the PHA with the approval of the HUD Field Office; or

(ii) Where the PHA’s purchase of the real property does not qualify as an arm’s-length transaction under 49 CFR 24.101(a)(1), the delivery of the initial written purchase offer from the PHA to the Owner of the property (i.e., the PHA executed form HUD-51971-II). However, if the PHA issues a notice of intent to acquire the property, and a person moves after that notice, but before the initial written purchase offer, the “initiation of negotiations” is the actual move of the person from the property;

(2) For turnkey projects, HUD Field Office approval of the PHA’s proposal incorporating the developer’s proposal, provided the contract of sale is later executed; or

(3) For major reconstruction of obsolete projects, the PHA’s issuance of the invitation for bids for the project.

(Approved by Office of Management and Budget under OMB Control Number 2506-0121)

[59 FR 29344, June 6, 1994]

§ 941.208 Other Federal requirements.

(a) *General.* The PHA shall be subject to all statutory, regulatory, and executive order requirements applicable to public housing development (see, e.g., 24 CFR parts 5, 8, 35, 50, and 965), as may be more fully described by HUD in notices, handbooks, or other guidance.

(b) *Lead-based paint.* In addition to the applicable requirements of 24 CFR part 35, all existing properties con-

structed prior to 1978 and proposed to be acquired for family projects under this part shall be tested for lead-based paint on applicable surfaces, as defined in 24 CFR part 965. If lead based paint is found, the cost of testing and abatement shall be considered when justifying new construction or meeting maximum total development cost limitations. For any units containing lead-based paint, compliance with 24 CFR part 965, subpart H, is required, and abatement shall be completed prior to occupancy.

[61 FR 38018, July 22, 1996]

§ 941.209 Audit.

All PHAs that receive funds under this part for the development of low-income housing shall comply with audit requirements in 24 CFR part 44.

[50 FR 39092, Sept. 27, 1985; 51 FR 30480, Aug. 27, 1986]

Subpart C—Application and Proposal

SOURCE: 61 FR 38018, July 22, 1996, unless otherwise noted.

§ 941.301 Application.

If funding is made available for public housing development, HUD will provide information about fund allocation, application deadline, and selection criteria and procedures through a Notice of Funding Availability (NOFA).

EFFECTIVE DATE NOTE: At 61 FR 38018, July 22, 1996, § 941.301 was revised. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. When approval is obtained, HUD will publish notice of the effective date in the FEDERAL REGISTER.

§ 941.302 Annual contributions contract; drawdowns and advances.

(a) A PHA wishing to develop public housing shall execute an ACC or ACC amendment covering the entire amount of reserved development funds or the amount of modernization funds (under section 14 of the Act, 42 U.S.C. 1437l) it proposes to use in accordance with this part. This ACC or ACC amendment must be executed by both

the PHA and HUD before funds can be provided to the PHA.

(b) Until HUD has approved a PHA's full proposal, a PHA may only draw down funds under the ACC for pre-development costs for materials and services related to proposal preparation and submission. Expenditures for pre-development costs shall not exceed three percent of the total development cost stated in the executed ACC.

(c) HUD may approve the following in writing:

(1) Amounts in excess of three percent of TDC for pre-development costs; and/or

(2) Drawdown of funds to enable a PHA to acquire a site after approval by HUD of the PHA's site acquisition proposal, in accordance with § 941.303.

(d) After HUD approval of the full proposal, the PHA may draw down additional funds under the ACC to develop the public housing units in accordance with the approved full proposal.

§ 941.303 Site acquisition proposal.

When a PHA determines that it is necessary to acquire land for development through new construction, it may spend funds authorized under this part to acquire development sites. HUD must approve a PHA's proposed use of funds before it may acquire sites in this manner. A PHA must submit the following documents for HUD review and approval, in accordance with the standards set forth in § 941.305:

(a) *Justification.* A justification for acquiring land prior to PHA proposal approval;

(b) *Site information.* An identification and description of the proposed site, site plan, neighborhood, and evidence of PHA control of the site for at least sixty (60) days after proposal submission.

(c) *Zoning.* Evidence that construction or rehabilitation is permitted by current zoning ordinances or regulations or evidence to indicate that needed rezoning is likely and will not delay the project.

(d) *Development schedule.* A copy of the PHA development schedule, including the PHA architect estimates of the time required to complete each major development stage.

(e) *Environmental assessment.* All available environmental information on the proposed development (to expedite the HUD environmental review).

(f) *Appraisal.* An appraisal of the proposed site by an independent, state-certified appraiser.

EFFECTIVE DATE NOTE: At 61 FR 38018, July 22, 1996, § 941.303 was revised. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. When approval is obtained, HUD will publish notice of the effective date in the FEDERAL REGISTER.

§ 941.304 Full proposal content.

Each full proposal shall include at a minimum the following:

(a) *Project description.* A description of the housing, including the number of units, schematic drawings of the proposed building and unit plans, outline specifications or rehabilitation work write-ups, and the types and amounts of non-dwelling space to be provided;

(b) *Description of development method.* A description of the PHA's proposed development method, and a demonstration by the PHA that it will be able to use this method successfully to develop the public housing units. If the PHA proposes to use the turnkey method, it must submit a Board-approved certification that the developer was selected as the result of a public solicitation for proposals and that the selection was based on an objective rating system, using such factors as site location, project design, price, and developer experience. If the PHA proposes to use the acquisition method, the PHA must submit a certification by the PHA and owner that the property was not constructed with the intent that it would be sold to the PHA. If the PHA proposes to use the mixed-finance method, it should have consulted with HUD on its plans. If the PHA proposes to use the force account method to develop the public housing units, it must have already received approval from HUD of its capability to carry out the development successfully in this manner;

(c) *Site information.* An identification and description of the proposed site, site plan, neighborhood, and evidence of PHA or turnkey developer control of